Appl. No.   : **09/669,805**
Filed   : **September 26, 2000**

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested.

The drawings stand objected to as allegedly being unacceptable because they are marked with publication information from another pending application. A duplicate copy of these drawings is submitted with the publication information obliterated.

The objections noted by the examiner have been corrected herewith; specifically the word "allowing" has been changed to –allows-- in claim 13, and the word "posting" has been changed to –portion-- in claim 24. The Patent Office is thanked for pointing out these errors.

Claim 7 stands rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. The rejection apparently disagrees with the characterization of "interactive". The undersigned disagrees with this in context, since the claim is defining the word non-interactive as one in which the users can place bids, and the highest current bid can be requested, while the interactive manner is one in which the auction participants place real-time bids which are seen automatically. The automatic updating of current bids represents the interactive portion.

In deference to the Examiner's opinion on this, claim 7, however, has been amended to remove the word "non-interactive". However, it is respectfully suggested that the removal of these words does not raise new issues, since it simply corrects what the Examiner views as an ambiguity in the claim.

Claim 1 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Brown '219. This contention remains respectfully traversed.

-8-

Appl. No.   :   **09/669,805**
Filed   :   **September 26, 2000**

Brown does in fact show an online bidding session that allows the bidders to see the highest bid. However, Brown does not teach or suggest that the view is automatically updated such that at least some of the bidders see a "list of other bidders on the auction".

Rather, according to Brown, the bidders see the highest but do not see the other bidders. As previously explained, an objective of this technology was to make the auction over the Internet look very much like a real auction space. In a real option space, all the bidders are together in an auction house. They see the other bidders, they hear the bid amounts, and by virtue of doing this, a kind of certain auction feeling is established. Claim 1 is intended to simulate this auction feeling. Claim 1 defines automatically updating the view so that the bidders see a change in the highest price and also see a list of other bidders on the auction.

The rejection states that Brown teaches automatically updating "to reflect a list of other bidders on the auction (e.g. bidding group see Figure 6 and column 7 lines 3-6 and column 8 lines 5-13"). However, the cited portion and cited discussion about the "bidding groups" refer to the grouping on the bid entry form; that is the form which is used to enter a new bid. When the user wants to enter a new bid, they get that form; that causes the groups and total bids to be displayed on the remote computer; but ONLY IN RESPONSE TO REQUESTING THAT FORM.

Nowhere is there any teaching or suggesting of automatically updating the view, by, for example, automatically sending the form.

-9-

Appl. No.   :   **09/669,805**
Filed   :   **September 26, 2000**

Once the form is sent, it is apparently static. Nowhere is there any teaching or suggestion that this form is updated. In fact, Brown never contemplates that the form is updated, but rather states that the browsers are caused to update themselves to view the updated total bids "<u>after</u> each bid amount is contributed" see column 8 line 16. Specifically, the bid entry form is obtained, but there is no teaching or suggestion that the bid entry form is updated in real-time. Therefore, claim 1 should be allowable for these reasons.

Claims 2 and 25 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Odom. This contention remains respectfully traversed. Claim 2 specifies a first computer that hosts the auction and a second computer that allows placing the bids. An important issue of claim 2 is that information is stored on the second computer about the bids, but that information is not viewable at the second computer. This does allow, however, local determination of whether the entered bid is higher than a current bid amount. The rejection states that this is taught by Odom. However, Odom does not teach storing information about the bids "which information is not viewable at the second computer...". Rather, the information in Odom must be viewable at the computer.

Column 6 lines 31-32 describe that the client is "provided with the current highest bid for the item..."; and that the bid must meet certain criteria. It makes no sense to think that the bid increment would <u>not</u> be disclosed to the user at the client. Internet auctions of today, such as eBay, use this same system; e.g. that the current bid is stored at the client, along with the predetermined increment. However, that

-10-

Appl. No.   : **09/669,805**
Filed   : **Sept mber 26, 2000**

predetermined increment is certainly viewable at the client, or in the words of claim 2, at the second computer.

Nowhere is there any teaching or suggestion in Odom that the information on the client is maintained secret. The recitation that the system has rules that allow only predetermined increments is certainly an indication that certain bids will not be accepted. However, it simply makes no sense to think that bid increment and other such information would not be disclosed to the user. It simply defies logic to think that useful information, such as the predetermined increment would be kept secret from the bidder. Certainly, there is no actual teaching of this in Odom.

Claim 2, in contrast, is usable in the situation where there actually is secret information, that you would not want to disclose to the user. While claim 2 does not define this secret information, it certainly defines that the information is not viewable at the second computer.

Once again, it makes no sense to think that Odom would prevent the bidding increment from being viewable. It simply defies logic, and nothing in Odom teaches or suggests that this is not viewable. Therefore, claim 2 should be allowable for these reasons.

Claim 25 should be even further allowable over the cited prior art. Claim 25 defines specifically "keeping secret a current maximum bid which has been placed for the item". As described above, nowhere does Odom teach or suggest anything about secret current maximum bids. Rather, Odom expressly teaches that the user is told the maximum bid, rather than it being kept secret. See for example, column 6 lines 29-30,

-11-

Appl. N . : **09/669,805**
Filed : **September 26, 2000**

stating that the client may be provided "with the current highest bid for the item".

Clearly, there is no teaching or suggestion of keeping the maximum bid secret.

Claim 25 also defines displaying an icon which allows the bid to be placed without contacting the server computer. Again, as discussed above, this is in no way taught or suggested by the cited prior art.

It appears that the rejection also intends to reject claims 26 and 28 in view of Odom. Each of these claims should be allowable for reasons discussed above, as well as on their own merits.

Claims 5, 27 and 28 stand rejected as being unpatentable over Odom in view of Ausubel. In this portion of the rejection, it is admitted that Odom does not teach keeping the amounts of the bid secret. The rejection states that Ausubel includes an agent which keeps the amounts of the bid secret until the time that is specified. The rejection draws attention to the summary which simply refers to the auctioneer. Ausubel does describe something called an English auction; in which the system does not reveal the user's maximum bid, but only the bid necessary to win the auction. Nowhere, however, is this bid amount kept secret until "a time specified by the bid" as required by claim 25. Rather, in the English auction model and specifically as defined by Ausubel, the bid amount is not revealed until it is made necessary by the amounts of other bids, not by "a time specified by the bid. Admittedly column 2 describes bidding rules, but never describes that a maximum bid is <u>released at a specified time.</u>

Moreover, as described above, nothing in Odom teaches anything about storing information on the second computer about bids which information is not viewable on that s cond computer. Therefore, claim 25 should be allowable for that reason.

-12-

Appl. No.   :   09/669,805
Fil d   :   S ptember 26, 2000

Claims 27 and 28 should be allowable by virtue of their dependency from claim 25, as well as for analogous reasons to those discussed above.

Claim 27 should be specifically allowable, since it recites an icon enabling a bid to be placed. The rejection states that Ausubel teaches a quick bid. However, while Ausubel does in fact teach a bidding auction, it teaches nothing about such a quick bid. Column 1 through column 3 as cited in the action teaches nothing about a quick bid. Similarly, the subject matter beginning at column 10 simply describes the bidding auction with the auctioneer, including sending messages back and forth. Nowhere is there any teaching or suggestion of an icon being used for a quick bid.

The cited section culminating in column 12 line 19 simply summarizes how the bids are placed, and does not describe an icon which can be used to form a winning bid.

Claims 7, 23 and 24 stand rejected over Odom in view of Alaia. The rejection uses the basic system of Odom along with the system described in Alaia's column 20-23. However, while Alaia does in fact teach a two-part auction, it is a very different kind of auction. Alaia teaches pre-bids to start the auction, followed by an on line auction. The pre-bids are initial "valid quotations" see column 21 line 12, with the online auction either starting using the amounts of the pre-bids, or somehow using those pre-bids to set the market rate. Nowhere is there any teaching or suggestion of the first portion of the auction in which users can place bids on items and a highest bid can be requested, followed by a second portion of the auction in which real-time bids can be placed and seen automatically by other participants in the auction. In fact, there is no showing in Alaia that the two auction phases could operate in this way.

-13-

Appl. No.   :   **09/669,805**
Filed   :   **September 26, 2000**

While Odom teaches an interactive auction, there is quite simply no teaching of how this could be modified by Alaia to yield the limitations of the claims. The hypothetical combination of Odom in view of Alaia might provide a Odom type system with the pre-bids in the first round of Alaia and the online second round of Alaia. Quite simply, there is no teaching or suggestion of a first mode where the user can request a highest bid and a second mode where the real-time bids are seen automatically by other participants. Therefore, claim 7 should be allowable along with claims 23 and 24 which depend therefrom.

Claims 13-16 stand rejected over Ausubel in view of Hartman. As analyzed above, Ausubel teaches nothing about enabling a quick bid "whereby a user can automatically bid an amount which will win the auction with a single click". The cited portion of the specification of Ausubel teaches nothing about a one click automatic win.

One click order placing of the type described by Hartman is very different than one click auction winning, and does not provide any teaching that would enable one having ordinary skill in the art to win an auction with one click.

In a one click order situation, there is an established exact price for any item. The "single click" of Hartman puts together that established price, with user information, and places the order.

A one click auction on the other hand, requires actually determining the price to use in ending the auction. Hartman teaches NOTHING about how to do that part, and nothing in Ausubel teaches how to establish that price for use in a one click "end the auction" system.

-14-

Appl. No.   :   **09/669,805**
Filed   :   **September 26, 2000**

Typically, in an auction, the auctioneer is trying to find the highest possible price for the item. It goes against conventional auction wisdom to consider that a one click way of winning the auction could be obtained. Rather, the end of the auction must be reached to establish that final price. One having ordinary skill in the art would not be guided to combine the single click system of Hartman with an Ausubel type auction, which teaches nothing about how to end the auction early with a price. If the combination were made, then it would add a Hartman type ability to buy an item, with a Ausubel type auction. The hypothetical combination teaches nothing about "automatically bid an amount which will win the auction with a single click" as claimed.

As described above, nothing in the cited prior art teaches anything about secret bids, and therefore claim 14 should be allowable for these reasons. As also described above, claim 15 defines times when bids are made, and again nothing teaches or suggests this feature. Claim 16 defines determining both the secret bids and nonsecret bids, which is nowhere taught or suggested by the cited prior art.

Claim 17 should be allowable by virtue of its dependency. In any case, the general teaching provided by Woolston of an extra fee for various actions suggests nothing about the subject matter of claim 17.

Claims 18 and 29 define a single click action of sending information to a server. Nowhere is there any teaching or suggestion of this in Brown in view of Hartman. Again, the reasons why one having ordinary skill in the art would not be able to combine these references in the way postulated by the rejection have been extensively discussed above.

-15-

Appl. No.   :   **09/669,805**
Filed   :   **September 26, 2000**

Claims 18, 20 and 21 should be allowable for analogous reasons; one having ordinary skill in the art would not be motivated to operatively combine a one click purchasing system with an auction system. In fact, this is quite simply the first system that has ever suggested a single click auction system. Moreover, even if the hypothetical combination was made, it would simply provide an auction system combined with the single click purchase system of Hartman, since there is no teaching or suggestion of how the single click purchase to Hartman could be applied to an auction situation.

Finally, a number of claims stand rejected based on obviousness type double patenting. It is noted that a terminal disclaimer would have no effect on patent term. Hence, a terminal disclaimer is filed herewith in order to obviate the issues.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.
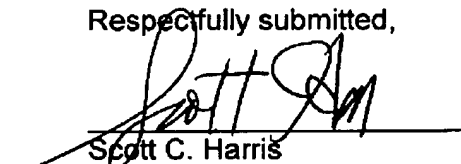
For all of these reasons, it is respectfully suggested that all of the claims should be in condition for allowance. A formal notice of allowance is hence respectfully requested.

-16-

Appl. No.   **:**   **09/669,805**
Filed   **:**   **September 26, 2000**

      Please charge any fees due in connection with this response, including the one

month extension of time, to Deposit Account No. 50-1387.

Respectfully submitted,

Date: 5-3-04

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Attachment: New Drawings
Terminal disclaimer

-17-